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 7 Attorneys for Defendants
 8 LIFE INSURANCE COMPANY OF
 NORTH AMERICA and PFIZER, INC.

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 10 **UNITED STATES DISTRICT COURT**
 11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

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 13 COURTNEY HALBROOKS,) Case No.: 08-CV-1466 LAB (NLS)
 14 Plaintiff,)
 15 vs.) **NOTICE OF ERRATA – TO**
 16 LIFE INSURANCE COMPANY OF NORTH) CERTIFICATE OF SERVICE OF NOTICE
 AMERICA; and PFIZER, INC.) TO ADVERSE PARTY OF REMOVAL OF
 17) ACTION TO FEDERAL COURT
 18 Defendants.)
 19 _____)

20 On August 12, 2008, Defendants Life Insurance Company of North America and Pfizer,
 21 Inc. removed this matter from the Superior Court of California for the County of San Diego to
 22 this Court. One of the documents filed was the “Certificate of Service of Notice to Adverse
 23 Party of Removal of Action to Federal Court.” That document certified that Defendants had
 24 served Plaintiff Courtney Halbrooks with, among other things, a state court pleading entitled
 25 “Notice to Adverse Party of Removal of Action to Federal Court.” *See Certificate, ¶ 2.* The
 26 document was identified as Exhibit “1,” thereto. *Id.* Unfortunately, while Defendants did
 27 correctly serve Plaintiff with the Notice to Adverse Party of Removal of Action to Federal Court,
 28 the wrong document was attached as Exhibit “1.”

**NOTICE OF ERRATA TO CERTIFICATE OF SERVICE OF NOTICE TO ADVERSE PARTY
 OF REMOVAL OF ACTION TO FEDERAL COURT**

1 To ensure that there is no confusion to Plaintiff or the Court, Defendants hereby file this
2 Notice of Errata and attach the correct document as Exhibit 1. A copy of this Notice of Errata is
3 being served by mail on Plaintiff.

4
5 Dated: August 13, 2008

WILSON, ELSER, MOSKOWITZ, EDELMAN &
6 DICKER LLP

7 By: /s/ Russell H. Birner
8 ADRIENNE C. PUBLICOVER
9 RUSSELL H. BIRNER
10 Attorneys for Defendants
11 LIFE INSURANCE COMPANY OF NORTH
12 AMERICA and PFIZER, INC.

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EXHIBIT “1”

EXHIBIT “1”

689418.1

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 11 **FOR THE COUNTY OF SAN DIEGO**

13 COURTNEY HALBROOKS,) Case No.: 37-2008-00005085-SC-SC-CTL
14 Plaintiff,) Small Claims - Dept: KM-2
15 vs.) DEFENDANTS' NOTICE TO ADVERSE
16 LIFE INSURANCE COMPANY OF NORTH) PARTY OF REMOVAL OF ACTION TO	
17 AMERICA; and PFIZER, INC.) FEDERAL COURT	
18 Defendants.) Complaint Filed: July 8, 2008
) Trial: August 13, 2008 5:45 p.m.

20 TO PLAINTIFF, COURTNEY HALBROOKS:

22 PLEASE TAKE NOTICE that Defendants Life Insurance Company of North America
 23 and Pfizer, Inc., seek removal of civil action number 37-2008-00005085-SC-SC-CTL from the
 24 Superior Court of the State of California for the County of San Diego to the United States
 25 District Court for the Southern District of California. A copy of the Notice of Removal (without
 26 exhibits) filed with the United States District Court for the Southern District of California on
 27 August 12, 2008, is attached hereto as Exhibit "1."

1 PLEASE TAKE FURTHER NOTICE THAT, pursuant to 28 U.S.C. Section 1446(d), the
2 filing of the Notice of Removal in the United States District Court, together with the filing of a
3 copy of the notice with the Superior Court of California for the County of San Diego, effects the
4 removal of this action, and the above-entitled state court may proceed no further unless and until
5 the case is remanded.

6
7 Dated: August 12, 2008

WILSON, ELSER, MOSKOWITZ, EDELMAN &
8 DICKER LLP

9 By: 
10 ADRIENNE C. PUBLICOVER

11 RUSSELL H. BIRNER

12 Attorneys for Defendants

13 LIFE INSURANCE COMPANY OF NORTH
14 AMERICA and PFIZER, INC.

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Attorneys for Defendants
LIFE INSURANCE COMPANY OF
NORTH AMERICA and PFIZER, INC.

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

COURTNEY HALBROOKS,) Case No.:
vs. Plaintiff,)
LIFE INSURANCE COMPANY OF NORTH) DEFENDANTS' JOINT NOTICE OF
AMERICA; and PFIZER, INC.) REMOVAL PURSUANT TO 28 U.S.C. §
Defendants.) 1441(b) and 29 U.S.C. § 1332(e)(1)
) (FEDERAL QUESTION – ERISA)
) Action Filed: July 8, 2008

TO THE COURT AND TO PLAINTIFF COURTNEY HALBROOKS:

PLEASE TAKE NOTICE that Defendants Life Insurance Company of North America (LINA) and Pfizer, Inc. (Pfizer) (collectively "Removing Defendants") hereby seek removal of civil action 37-2008-00005085-SC-SC-CTL from the Superior Court of the State of California for the County of San Diego to the United States District Court for the Southern District of California. Removal of this action is proper for the following reasons:

1 1. JOINDER

2 Removing Defendants are the only defendants in the civil action filed on or about July 8,
 3 2008, in the Superior Court for the State of California for the County of San Diego, entitled
 4 "Courtney Halbrooks v. Life Insurance Company of North America and Pfizer, Inc.," Case No.
 5 37-2008-00005085-SC-SC-CTL. A true and correct copy of the Complaint is attached hereto as
 6 Exhibit "A."

7 2. TIMELINESS

8 The first date upon which either of Removing Defendants received a copy of said
 9 Complaint was July 15, 2008, when it was served upon CT Corporation, LINA's registered agent
 10 for service of process. Removing Defendants are removing this matter on August 12, 2008,
 11 within 30 days of its receipt of the Complaint, which is the initial receipt of a copy of the initial
 12 pleading.

13 3. FEDERAL QUESTION JURISDICTION

14 This Court has jurisdiction under 28 U.S.C. § 1441(b) over matters arising under the
 15 Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001, *et seq.* ("ERISA").
 16 ERISA completely preempts all of Plaintiff's state law claims, which are, in fact, claims arising
 17 under federal law and thus are removable to federal court. *Metropolitan Life Ins. Co. v. Taylor*,
 18 481 U.S. 58, 66 (1987). This complete preemption operates to confer original federal subject
 19 matter jurisdiction notwithstanding the absence of a federal cause of action on the face of the
 20 complaint. *In re U.S. Healthcare, Inc.*, 193 F.3d 151, 160 (3rd Cir. 1999). Based on the facts set
 21 forth below, which were true at the time the Complaint was filed and which remain true as of the
 22 date of filing of this Notice of Removal, this action is governed by ERISA and therefore properly
 23 removed to this Court.

24 Plaintiff's sole allegation is that she is entitled to long-term disability benefits and
 25 "COBRA insurance reimbursement benefits" from her employer, Pfizer, and the asserted
 26 disability insurer, LINA, based on an alleged wrongful denial of long-term disability benefits.
 27 *Complaint*, p.2, ¶ 3. The long-term disability insurance policy at issue provides group disability
 28

1 insurance coverage to the employees of Pfizer. A true and correct copy of the policy at issue is
 2 attached hereto as *Exhibit B*.¹

3 Federal law under ERISA controls actions brought to recover benefits and to enforce
 4 rights under employee welfare benefit plans. 29 U.S.C. § 1132(e)(1); *Pilot Life Ins. Co. v.*
 5 *Dedeaux*, 481 U.S. 41 (1987). Removal of such cases to federal court is proper. *Taylor, supra*.
 6 According, this matter is governed by ERISA and, therefore, is removable to this Court under 28
 7 U.S.C. § 1441(b).

8 4. PROCESS

9 Exhibit "A," attached hereto, constitutes the entire process and pleadings filed in the state
 10 court action.

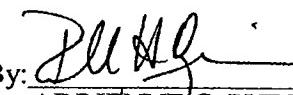
11 This Notice of Removal is being filed without prejudice to Removing Defendants'
 12 objections and defenses. Written notice of the filing of this Notice of Removal has been given to
 13 all adverse parties and a copy has been filed with the Clerk of the Superior Court of the State of
 14 California for the County of San Diego, in accordance with the provisions of 28 U.S.C. §
 15 1446(d).

16 WHEREFORE, Removing Defendants pray that the above action pending in the Superior
 17 Court of California for the County of San Diego be removed from that court to this Court.

18 Dated: August 12, 2008

19 WILSON, ELSER, MOSKOWITZ, EDELMAN &
 20 DICKER LLP

21 By:

22 
 23 ADRIENNE C. PUBLICOVER
 24 RUSSELL H. BIRNER
 25 Attorneys for Defendants
 26 LIFE INSURANCE COMPANY OF NORTH
 27 AMERICA and PFIZER, INC.

28 ¹ Although generally confined to the face of the complaint in deciding whether to exercise removal jurisdiction, the Court may look outside of the complaint in cases where complete preemption is alleged, e.g., when removal is based on ERISA preemption of state law claims for benefits pursuant to an ERISA-governed plan. See *Parrino v. FHP, Inc.*, 146 F.3d 699, 704 (9th Cir. 1998), cert. denied, 525 U.S. 1001 (1998) ("a federal court may look beyond the face of the complaint to determine whether the claims alleged as state law causes of action in fact are necessarily federal claims.")

**PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California, by WILSON, ELSEY, MOSKOWITZ, EDELMAN & DICKER LLP and am over the age of 18 and not a party to the within action. My business address is 555 South Flower Street, Suite 2900, Los Angeles, California 90071.

On August 12, 2008, I served the foregoing document described as **DEFENDANTS' JOINT NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1441(b) and 29 U.S.C. § 1332(e)(1) (FEDERAL QUESTION-ERISA)** on all interested parties, through their respective attorneys of record in this action, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Courtney Halbrooks
3315 Cheyenne
San Diego, CA 92117

 (BY MAIL) I caused such envelope(s) fully prepaid to be placed in the United States Mail at Los Angeles, California. I am "readily familiar" with the firm's practice of collection and processing correspondence or mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY OVERNIGHT-FEDERAL EXPRESS) I caused said document(s) to be picked up by U.S. Federal Express Services for overnight delivery to the offices of the addressees listed on the Service List.

 (BY HAND DELIVERY/PERSONAL SERVICE) I caused said document(s) to be personally delivered by a courier/attorney service to each addressee on the Service list.

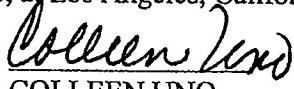
 (BY FACSIMILE) I caused said document(s) to be telephonically transmitted to each addressee's telecopier (Fax) number as noted.

JURISDICTION

XX (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

 (State) I declare under penalty of perjury that the above is true and correct.

Executed on August 12, 2008, at Los Angeles, California.


COLLEEN UNO

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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On August 12, 2008, I served the foregoing document described as **DEFENDANTS' NOTICE TO ADVERSE PARTY OF REMOVAL OF ACTION TO FEDERAL COURT** on all interested parties, through their respective attorneys of record in this action, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

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San Diego, CA 92117

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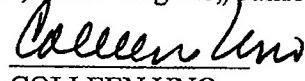
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8 **ERRATA – to CERTIFICATE OF SERVICE OF NOTICE TO ADVERSE PARTY OF**
9 **REMOVAL OF ACTION TO FEDERAL COURT** on all interested parties, through their
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13 3315 Cheyenne
14 San Diego, CA 92117

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26 
27 COLLEEN UNO

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29 **NOTICE OF ERRATA TO CERTIFICATE OF SERVICE OF NOTICE TO ADVERSE PARTY**
30 **OF REMOVAL OF ACTION TO FEDERAL COURT**